

Atty. Docket No. DE919990077
(590.161)

REMARKS

In the Office Action dated October 18, 2007, pending Claims 1, 3-6, 8, 10-14, 16, 20 and 23 were rejected, and the rejection made final. Claims 1, 10, and 12 are independent; the remaining claims are dependent claims. In response, Applicants have submitted a Request for Continued Examination and this Amendment.

Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Rejections under 35 U.S.C. 112

Claims 3-5 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner asserts that the limitation "said authentication" in line one is not clear which of the authentication steps in claim 1 this "said authentication" refers to. In response, Applicants have amended claims 3-5 to provide sufficient antecedent basis. Thus, Applicants respectfully request reconsideration and withdrawal of these rejections.

Atty. Docket No. DE919990077
(590.161)

Rejections under 35 U.S.C. 103(a)

Claims 1, 2-6, 8 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kravitz (US 6,029,150) (hereinafter "Kravitz") in view of Martino (US 6,574,314) (hereinafter "Martino") in view of Vatanen (US 6,169,890) (hereinafter "Vatanen") in view of Morrill, Jr. (US 5,991,749) (hereinafter "Morrill") in view of Herlin (US 6,023,689) (hereinafter "Herlin") and further in view of Herbert (US 6,023,509) (hereinafter "Herbert"). Claims 14, 20 and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kravitz in view of Martino, in view of Vatanen in view of Morrill, in view of Herlin, in view of Herbert, and further in view of Kikinis (US 6,055,566) (hereinafter "Kikinis").

Without specifically addressing the Office's position as to whether the references teach the limitations they are cited for, the outstanding Office Action fails to make out a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be a suggestion or motivation to modify a reference or combine references; a reasonable expectation of success in making the modification or combination; and the prior art must teach or suggest all the claim limitations. *See, e.g. In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Furthermore, the outstanding Office Action fails to comply with the *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc.*, 72 F.R. 57526 (hereinafter "the Guidelines"). The Office has failed in this instance to establish such a case of obviousness; therefore, the present rejections are improper and made in clear error.

Atty. Docket No. DE919990077
(590.161)

At best, the outstanding action merely makes improper conclusory statements of obviousness with respect to Claims 1, 3-6, 8, 10-14, 16, 20 and 23 (i.e., "it would have been obvious to ..."). As such, the present rejections are improper.

As noted in the Guidelines, "[a]ny obvious rejection should include ... an indication of the level of ordinary skill," the Guidelines then proceed to list seven (7) approved rationales for supporting an obvious rejection. In the present case, the Office does not provide an indication of the level of ordinary skill or an approved rationale for any of the claims. As such, Applicants respectfully submit the outstanding rejections under 35 U.S.C. 103(a) are improper and should be withdrawn.

Conclusion

The "prior art made of record" has been reviewed. Applicants acknowledge that such prior art was not deemed by the Office to be sufficiently relevant as to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicants will be fully prepared to respond thereto.

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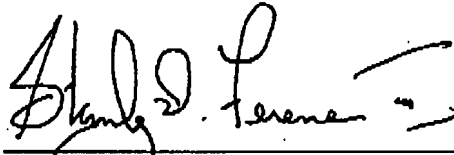
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Atty. Docket No. DE919990077
(590.161)

In view of the foregoing, it is respectfully submitted that Claims 1, 3-6, 8, 10-14, 16, 20 and 23 fully distinguish over the applied art and are thus in condition for allowance. Notice to that effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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